

### Remarks/Arguments

In the examiner's final rejection dated September 4, 2003, the examiner allows that the Rule 131 affidavits filed June 2, 2003 which established a date of invention no later than April 15, 2001 were sufficient to overcome the Tang, et al reference cited in the prior Office Action. The examiner then rejects Claims 1-16 under 35 USC 103(a) as unpatentable over US Application 2003/01115999 to Staats in view of US Patent 6,107,628 to Smith et al. However, the Staats et al application claims as its earliest priority date a provisional application filed December 19, 2001. Thus, if the Rule 131 affidavits filed June 2, 2003 were sufficient to overcome the Tang, et al reference cited in the prior Office Action, they were also sufficient to overcome the Staats reference as the Staats reference was filed at least 7 ½ months later than the date of the present invention. The applicant respectfully requests that the examiner remove the Staats reference as prior art, and remove the rejection under 35 USC 103(a) based upon the Staats reference, and allow the claims to issue.

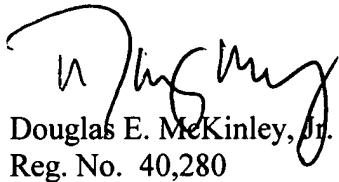
The undersigned suspects that the examiner inadvertently misread the date of the Staats reference, and the rejection based upon Staats was inadvertent. Nevertheless, in reviewing the prior affidavits, the undersigned noted that the affidavits did not explicitly state that the invention and reduction to practice had occurred in the United States. Accordingly, the applicant submits herewith a second affidavit signed by the named inventor, Keqi Tang, clarifying that the conception and reduction to practice of the claimed invention did occur in the United States. In the event that the examiner is unwilling to remove the Staats reference and allow the claims to issue, the undersigned respectfully requests that the Tang affidavit submitted herewith nevertheless be entered into the record to place the application in better condition for appeal.

Applicant has made an earnest attempt to place the above referenced application in condition for allowance and action toward that end is respectfully requested. Should the

Appl. No. 10/091,833  
Amdt. dated November 4, 2003  
Reply to Office action of September 4, 2003

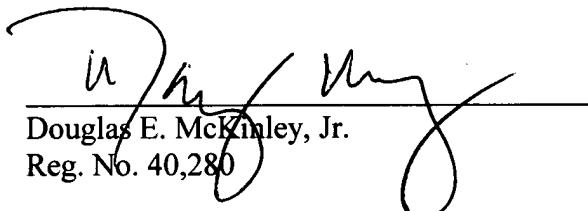
Examiner have any further observations or comments, he is invited to contact the undersigned for resolution.

Respectfully submitted,

  
Douglas E. McKinley, Jr.  
Reg. No. 40,280

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The undersigned hereby certifies that the forgoing Amendment dated November 4, 2003 in reply to the office action of September 4, 2003 are being deposited with the United States Postal Service as First Class Mail, postage prepaid, together with an affidavit of Keqi Tang signed November 4, 2003, and a return postcard, in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

  
Douglas E. McKinley, Jr.  
Reg. No. 40,280

November 4, 2003  
Date